

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

STEPHEN TROY BUGG,

Petitioner,

v.

CIVIL ACTION NO. 1:17-03601

BARBARA RICKARD, Warden

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. By Standing Order, the matter was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On September 1, 2017, the magistrate judge submitted his Amended PF&R, in which he recommended that the district court **DISMISS** in part and **CONSTRUE** and **TRANSFER** in part. ECF No. 12.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Aboulhosn's Findings and Recommendation. The failure to file such objections constitutes a waiver of the right to a de novo review

by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Petitioner failed to file any objections to the magistrate judge's PF&R within the seventeen-day period. Having reviewed the Amended PF&R, the court adopts the findings and recommendation contained therein.

The court hereby **ADOPTS** the factual and legal analysis contained with the Amended PF&R, (ECF No. 12), **DISMISSES** this matter to the extent petitioner is challenging (1) the Board of Parole's calculation of his criminal sentence and (2) to the extent petitioner asserts a claim based upon U.S.S.G. § 5G1.3(b), **CONSTRUES** petitioner's writ of habeas corpus as a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255, and **TRANSFERS** the motion to the United States District Court for the Eastern District of Kentucky.

Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v.

McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of records and petitioner, pro se.

It is SO ORDERED this 5th day of December, 2017.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge